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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/840,471	04/23/2001	Joseph D. Long	2400-663	2400-663 1934	
27820	7590 07/17/2003				
WITHROW	WITHROW & TERRANOVA, P.L.L.C.			EXAMINER	
P.O. BOX 128 CARY, NC 2			RODRIGUE	Z, PAUL L	
			ART UNIT	PAPER NUMBER	
			2125	$\kappa$	
			DATE MAILED: 07/17/2003	J	

Please find below and/or attached an Office communication concerning this application or proceeding.

			C/		
	Application No.	Applicant(s)			
' Office Action Summany	09/840,471	LONG ET AL.			
' Office Action Summary	Examiner	Art Unit			
TI MANUNO DATE - CALL	Paul L Rodriguez	2125	droop		
- The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with t	me correspondence ad	aress		
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period v - Failure to reply within the set or extended period for reply will, by statute, - Any reply received by the Office later than three months after the mailing earmed patent term adjustment. See 37 CFR 1.704(b).  Status	86(a). In no event, however, may a reply within the statutory minimum of thirty (30 iill apply and will expire SIX (6) MONTHS cause the application to become ABANI	be timely filed  i) days will be considered timely from the mailing date of this of DONED (35 U.S.C. § 133).	y. ommunication.		
1) Responsive to communication(s) filed on	<u> </u>				
2a) ☐ This action is <b>FINAL</b> . 2b) ☑ Th	is action is non-final.				
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims  4)⊠ Claim(s) <u>1-36</u> is/are pending in the application					
4) Of the above claim(s) is/are withdraw					
5) Claim(s) is/are allowed.	WITHOUT CONSIDERATION.				
6) Claim(s) is/are rejected.					
7) Claim(s) is/are rejected.					
8) Claim(s) 1-36 are subject to restriction and/or	election requirement				
Application Papers	siection requirement.				
9) The specification is objected to by the Examine	·.				
10) The drawing(s) filed on is/are: a) accept	eted or b) objected to by the	Examiner.			
Applicant may not request that any objection to the	e drawing(s) be held in abeyance	e. See 37 CFR 1.85(a).			
11) The proposed drawing correction filed on	is: a) ☐ approved b) ☐ disa	pproved by the Examin	er. ·		
If approved, corrected drawings are required in rep	oly to this Office action.				
12) The oath or declaration is objected to by the Ex	aminer.		·		
Priority under 35 U.S.C. §§ 119 and 120					
13) Acknowledgment is made of a claim for foreign	priority under 35 U.S.C. § 1	19(a)-(d) or (f).			
a) ☐ All b) ☐ Some * c) ☐ None of:					
1. Certified copies of the priority documents	s have been received.				
2. Certified copies of the priority documents	s have been received in Appl	ication No			
<ul> <li>3. Copies of the certified copies of the prior application from the International But</li> <li>* See the attached detailed Office action for a list</li> </ul>	reau (PCT Rule 17.2(a)).		Stage		
14) Acknowledgment is made of a claim for domestic	priority under 35 U.S.C. § 1	19(e) (to a provisional	application).		
a) ☐ The translation of the foreign language pro	• •				
Attachment(s)					
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Info	nmary (PTO-413) Paper Normal Patent Application (PTo			
J.S. Patent and Trademark Office PTO-326 (Rev. 04-01) Office Ac	ion Summary	Part of Paper No. 5			

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## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-13 and 30-36, drawn to a thin speaker, classified in class 181/, subclass
     141.
  - II. Claims 14-27, drawn to a kiosk, classified in class 235, subclass 380.
  - III. Claims 28-29, drawn to a fuel dispensing apparatus, classified in class 700, subclass 231.
- 2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because although independent claim 14 recites similar claim language as presented in claim 1, the rigid enclosure presented in claim 14 is directed to a housing containing not only a lens and magnetic driver but also a display device making that rigid enclosure separate and distinct from the rigid enclosure of the thin speaker. The subcombination has separate utility such as a speaker for a outdoor announcement system, ATMs, amusement park attractions or any other communication system that is provided in an outdoor weather environment.

Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the

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subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because although independent claim 28 recites similar claim language as presented in claim 1, the rigid enclosure presented in claim 28 is directed to a housing containing not only a lens and magnetic driver but also a display device, specifically with an LCD module, making that rigid enclosure for the fuel dispenser separate and distinct from the rigid enclosure of a thin speaker. The subcombination has separate utility such as a speaker for an outdoor announcement system, ATMs, amusement park attractions or any other communication system that is provided in an outdoor weather environment.

- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- 4. Because these inventions are distinct for the reasons given above and the search required for Group II and III is not required for Group I, restriction for examination purposes as indicated is proper.
- 5. A telephone call was made to Steve Terranova on 7/16/03 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul L Rodriguez whose telephone number is (703) 305-7399. The examiner can normally be reached on 6:00 - 4:30 T-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo P Picard can be reached on (703) 308-0538. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9600.

Paul L Rodriguez

Examiner

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PLR July 16, 2003